

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BAUDELIO GARCIA-JIMENEZ,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. C15-5656 RJB-KLS

**REPORT AND RECOMMENDATION**

**Noted For: April 22, 2016**

Pro Se Plaintiff Baudelio Garcia-Jimenez has failed to keep the Court apprised of his current address. It has been more than sixty days since the Court's mailing to Mr. Garcia-Jimenez was returned and the Court does not have a current address for him. Therefore, the undersigned recommends that the Court dismiss this action as Mr. Garcia-Jimenez appears to have abandoned his case.

**DISCUSSION**

Mr. Garcia-Jimenez filed this 42 U.S.C. § 1983 civil rights complaint in September, 2015 while incarcerated at the Northwest Detention Center. Dkt. 1. He was granted leave to proceed *in forma pauperis*. Dkt. 6. The Court declined to serve his complaint due to several deficiencies, but granted Mr. Garcia-Jimenez leave to file an amended complaint in an Order to Show Cause or Amend Complaint dated October 20, 2015. Dkt. 8. On October 27, 2015, the Court's Order granting *in forma pauperis* status was returned by the NWDC marked "Not Here."

1 Dkt. 9. On November 2, 2015, the Court's Order to Show Cause or Amend Complaint was  
2 returned, marked "not deliverable as addressed/unable to forward," and "Not Here." Dkt. 10.

3 On January 4, 2016, the Court re-noted its Order to Show Cause to allow plaintiff  
4 additional time to respond and the Order was sent to plaintiff at a Long Beach, California address  
5 found in his complaint. Dkt. 11. On January 21, 2016, that mailing was returned, marked "not  
6 deliverable, unable to forward." Dkt. 12. Rule 41(b)(2) of the Local Rules provides:

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8 A party proceeding pro se shall keep the court and opposing parties advised as to  
9 his or her current mailing address and, if electronically filing or receiving notices  
10 electronically, his or her current email address. If mail directed to a pro se  
11 plaintiff by the clerk is returned by the Postal Service, or if email is returned by  
12 the internet service provider, and if such plaintiff fails to notify the court and  
opposing parties within 60 days thereafter of his or her current mailing or email  
address, the court may dismiss the action without prejudice for failure to  
prosecute.

13 CR 41(b)(2), Local Rules W.D. Wash.

### 14 CONCLUSION

15 This action has existed more than sixty days without a current address for plaintiff.  
16 Therefore, it is recommended that the Court dismiss this action without prejudice for failure to  
17 prosecute pursuant to Local Rule 41(b)(2).

18 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil  
19 Procedure, the parties shall have fourteen (14) days from service of this Report to file written  
20 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those  
21 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the  
22 time limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on  
23 **April 22, 2016**, as noted in the caption.  
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REPORT AND RECOMMENDATION - 2

1       **DATED** this 4<sup>th</sup> day of April, 2016.

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4       Karen L. Strombom  
5       United States Magistrate Judge  
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